

Legal Analysis of Outsourcing Work Management System in Makassar City of South Sulawesi Province

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Abstract. The outsourcing worker management system in nuanced labor laws does not reflect the principle of justice for workers. The method of this research is sociological normative legal research, the location of the research is in companies in South Sulawesi. Study analysis is descriptive qualitative. Data collection was carried out by interview, documentation. The results of the study showed that legally the labor in the outsourcing management system had not been carried out in accordance with the labor law. 95% of respondents stated that their rights and obligations as outsourced workers were not in accordance with the provisions in the labor law, both economic protection and occupational health and safety protection, with unclear employment agreements..

Keywords. Rights of outsourced workers

1. Introduction

Legalization of the use of outsourcing services only occurred in 2003, namely the issuance of Law Number 13 of 2003 concerning Manpower. [1], [2] Many people consider the practice of modern slavery in Indonesia, in almost all sectors of outsourcing work. Many cases were brought to court regarding the industry regarding the approval of outsourced workers who were terminated unilaterally, to get compensation for termination of employment from the user company or to be employed in the user company as a worker in the company. Basically every legislation can run well and be profitable if there is a good relationship between theory, norms and implementation, including the rules of the outsourcing system. In Law Number 13 of 2003 concerning Labor, what is meant by outsourcing is article 64, article 65 (consisting of 9 paragraphs), and article 66 (consisting of 4 paragraphs). Article 64 is the legal basis for outsourcing. Article 64.

"The company can send most of the work to other companies through work contracting agreements or the provision of workers' services in writing." [1]–[5]

Article 9 (1) The contract of employment agreed to through a contract of employment (2) the contract of employment is agreed in paragraph (1) the rights and obligations of each party; b. guaranteeing the fulfillment of work requirements and requirements; and c. have workers who have competence in their fields. Requirements of the Recipient's Company Article 12 Recipient's company must fulfill the following requirements: a. in the form of a legal entity; b. has a company registration certificate; c. have a business license; d. has compulsory proof of employment report at the company. Article 13 Every work agreement in the division of work requested for the fulfillment of the rights of the worker / laborer in a work relationship agreed to in the legislation. Article 14 Work agreements in chartering concerning work relationships between the contracting recipient company and workers / laborers are made in

writing. Article 15 The employment relationship between the contracting recipient company and the workers / laborers in accordance with Article 14 can be granted with a certain time work agreement or a specified time work agreement.[2]

Provision of worker / labor services as stipulated in the conditions for providing worker / labor service Article 17 (1) The employer may submit a portion of the work carried out to the worker / labor service provider company through an agreement to provide workers / laborers' services in writing. (2) Work that can be submitted to the company providing worker / labor services as referred to in paragraph (1) must be a supporting service activity or that is not directly related to the production process. (3) Supporting service activities as referred to in paragraph (2) include: a. cleaning service business; b. food supply business for workers / laborers (catering); c. security effort business (security / security unit); d. business support services in mining and petroleum; and e. business of providing transportation for workers / laborers. (Law No. 13 of 2003 concerning employment) If you look at labor law in South Africa in the last two decades, it has carried out structured labor reforms by prioritizing protection and broadening the participation of workers.[6]–[12]. However, the basic protection that is in fact defacto continues to be toppled by employers or not carried out by serika workers, the provisions stipulated in labor regulations in South Africa many workers still do not fit the model.[13]–[16] Thus the two comparisons of labor regulations developed by the two countries namely labor regulations in Indonesia and South Africa, show that how important unions are in fighting for workers' rights, in accordance with their normative rights.

2. Method

This research is a legal research using the normative-sociological approach, through the study of legal theory and labor legislation. Research location in South Sulawesi. The source of legal research material consists of three types, namely first, primary legal material in the form of labor legislation, Second, secondary legal material in the form of legal principles, legal theory. Third, tertiary legal material in the form of legal articles or journals. This research data collection technique uses interviews and document studies. Legal material that has been obtained, then categorized or coding data and analysis using qualitative analysis with a normative-sociological approach to interpret these legal materials descriptively

3. Result and Discussion

The results showed that outsourcing workers are workers who have been legally regulated in the legislation. As stipulated in the Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 19 of 2012 that the implementation of the employment contract and the provision of services for workers / laborers is directed to create a climate of industrial relations that is harmonious, dynamic and fair. And it is carried out by means of a Contract of Contract of Employment as stipulated in Article 9 paragraph (1) that the Submission of a portion of the execution of work is carried out through a written contract of employment

The rights and obligations of each party is one of the provisions stipulated in the Act. Manpower as stipulated that the company providing worker / labor services is turning into a working relationship between the worker / laborer and the employer. Thus the service provider company is responsible for everything related to the field of employment, including labor rights, work protection and conditions of work for workers, at least the same as work protection and conditions of work at the employer or in accordance with with applicable laws and regulations. Based on article 64 which stipulates that the company can surrender some of the work implementation to other companies through work contracting agreements or the provision of services of workers / laborers in writing.

The results showed that there was a cooperation agreement made by the first party as the employer with the second party to carry out the work contained in the cooperation agreement document. In the agreement, the first party agreed and agreed to appoint and assign tasks / work to the second party, and the second party agreed and agreed to accept the assignment / work from the first party to carry out the work.

In several article clauses that regulate workers' rights, so that the employment agreement has not shown an agreement that should be according to the provisions stipulated in the labor law that outsourcing worker agreements in relation to work protection (rights and obligations) are at least the same as work protection and terms of employment at the employer company or in accordance with the provisions of

the applicable laws and regulations (labor law) thus in a work agreement should be explicitly and clearly the rights and obligations of each party. However, an employment agreement according to the provisions of the legislation must not conflict with company regulations that weaken the position of workers.

Related to the legal knowledge of outsourced workers based on the results of interviews, it shows that workers' knowledge of the provisions of labor law is still low, most of the outsourced workers said that they did not know about their rights and obligations as workers, did not know of labor laws, 95% of respondents stated that they did not never saw and never delivered about the rights and obligations in the agreement. In worker protection theory, there are three forms of protection that must be received by workers; the first is economic protection, social protection and occupational health protection. Economic protection, which is a type of protection associated with efforts to provide workers with an adequate daily needs for themselves and their families, including in the case the worker is unable to work because of something against his will. Workers receive wages limited to wages that are delivered orally, while referring to the provisions in the labor law that every worker / laborer has the right to earn an income that fulfills a decent living for humanity. Including the additional wages that can be received and other benefits and the amount of wages and how to pay, but in the work agreement only regulates the amount of wages as the price and cost of work. Regarding the technical protection of outsourced workers, it is only explained in the cooperation agreement that workers are only required to provide certain equipment to support the work needed when carrying out their duties and work. When referring to the provisions stipulated in article 86 of the Manpower Act, it is clear that workers providing service providers are obliged to provide workers' safety and health protection, but the cooperation agreement does not include these obligations to the second party.

Based on the results of interviews, most workers have never received equipment that can be used as protective equipment at work, related to building yard cleaning, of course, protective equipment is needed in doing work. The provisions of the Manpower Act indicate that there is no reason for service providers not to pay attention to workers' normative rights including job security. (Interview result)

In the employment law of a worker who is directly bound to the worker, then the employer should have given their rights, and the employer is legally responsible, and implement the provisions stipulated in labor law, as stipulated in Law number 13 Year 2003. The work agreement should have clearly and clearly drawn the rights and obligations of each party, but the work agreement made between the employer and the recipient of the work is not clear the rights of workers as the rights of workers stipulated in the labor law, it's just what is described in the employment contract is the wages for each worker.

The practice of day-to-day outsourcing has so far been recognized to be more detrimental to workers / laborers, because the employment relationship is always in the form of a non-permanent / contract (work agreement for a certain time), lower wages, social security even if there is only a minimum, no guarantee of career development, and others. Thus it is true that in such circumstances it is said that the practice of outsourcing will misery workers / laborers and make industrial relations run away.

Outsourcing arrangements in Law No. 13 of 2003 concerning Manpower has not been able to answer all issues of outsourcing that are so broad and complex. However, at least it can provide legal protection to workers / laborers, especially those concerning working conditions, working conditions as well as social security and other work protections can be used as a reference in resolving if problems occur.

In recent years the implementation of outsourcing is associated with employment relations, very much discussed by the perpetrators of the production of goods and services and by observers. Because outsourcing is done intentionally to reduce labor / labor costs (labor cost) with the protection and conditions of work provided far below what should be given so that it is very detrimental to workers / laborers. The implementation of such outsourcing can cause unrest of workers / laborers and not infrequently followed by strikes, so that the purpose of outsourcing as mentioned above becomes unattainable, because of the disruption of the production process of goods and services.

In providing worker / labor services, the employer may not employ workers / laborers to carry out main activities or activities related to the production process and may only be used to carry out supporting service activities or activities that are not directly related to the production process. These activities include cleaning service businesses, food service businesses for workers / catering, businesses for security forces or security units, supporting service businesses in mining, and petroleum as well as

business for transporting workers / laborers. In addition to the requirements that apply to employment, companies providing workers / laborers' services are responsible for wage and welfare protection, terms of employment and industrial relations disputes that occur.

4. Conclusion

The outsourcing worker management system according to the provisions of the labor law has not been running optimally, because some of the conditions required in the work agreement between the parties that hand over a part of the work implementation to the workers' service providers have not been regulated in detail, clearly and firmly, so that the form of the agreement can weaken the position of outsourcing workers. The daily practice of outsourcing is more detrimental to workers / laborers, because the employment relationship is always in the form of a non-permanent / contract (work agreement for a certain time), lower wages, social security even if there is only a minimum, no job security and no guarantee of development careers, and so on, such conditions are caused by employers providing workers with less attention to the provisions contained in the labor law. Because there is a need for strong trade unions to fight for workers' normative rights, it is necessary to continuously socialize with the public about the position of outsourcing workers in the labor law, so that people who want to work as outsourced workers do not always become objects or targets as workers. cheap work for the service provider company.

Acknowledgment

We thank the Rektor, Dekan of Universitas Negeri Makassar. Makassar City Manpower Office, South Sulawesi Province Manpower Office and City Manpower Service Provider Company

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